

Appl. No U.S. Patent Application No. 09/889,628
Docket No. CM1993M
Amdt. Dated December 12, 2003
Reply to Office Action of November 19, 2003

REMARKS/ARGUMENT

The Official Action, dated November 19, 2003, has been carefully considered. Accordingly, the changes presented herewith, taken with the following remarks, are believed sufficient to place the present invention in better condition for consideration on Appeal. Reconsideration and allowance of all remaining claims is respectfully requested.

Status Of The Claims

The support for these amendments is found in the specification and claims as previously filed. Claims 2-15 and 30 were previously canceled. In the present amendment, Claim 29 has been canceled without prejudice. Claim 1 has been amended to incorporate compression pressures. Claim 32 has been amended to incorporate a range of compression pressures. Claims 1 and 16-28 and 31-32 are now pending in this application.

Formal Matters

For the record, there are no objections or rejections under §112 outstanding.

Rejection Under 35 U.S.C. § 103(a)

Claims 1, 16-29, and 31-32 are rejected by the Examiner under 35 U.S.C. § 103(a) as allegedly defining obvious subject matter over Schmidt (EP 0,799,866) in view of Davidson (U.S. Patent No. 3,951,821) and further in view of Gladfelter et. al (WO 92/20774) (hereinafter "Gladfelter"), for reasons of record at page 2 of the Office Action.

The Final Office Action (Paper 6) concludes that it would have been obvious to one of ordinary skill in the art at the time the invention was made to prepare the detergent tablet of Schmidt and Davidson in the form taught by Gladfelter because this would dispense compatible or incompatible actives in one system as taught by Gladfelter, as well as, encompass the required compression pressures. Furthermore, although the Examiner recognizes that Gladfelter fails to specifically disclose a tablet having a first phase in the form of a shaped body having a mould therein and a second phase in the form of a particulate solid compressed within the mould, the Examiner, nevertheless, concludes that since processes like tableting would have been obvious to one of ordinary skill in the art at the time the invention, the compression pressures, as well as, adhesion of

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the two phases by affixation are suggested by the combined teachings of Schmidt, Davidson, and Gladfelter allegedly encompass the Applicant's tablet.

The Applicants respectfully disagree with the Examiner's conclusion. Applicants respectfully submit that Gladfelter fails to teach each and every element of the claimed invention as claimed in Claims 1 and 16-28 and 31-32, as amended.

The Applicants wish to point out to the Examiner that neither Schmidt, Davidson nor Gladfelter, alone or in combination, teach or suggest the compression pressures required by the Applicants' multi-phase detergent tablet. The Applicants' tablet requires (i) a first phase in the form of a shaped body having at least one mould therein, the shaped body being compressed at a pressure of at least about 250 kg/cm²; and (ii) a second phase is in the form of a compressed particulate solid affixed within said mould, the shaped body being compressed at a pressure of less than from 350 kg/cm². While Schmidt is directed to detergent tablets that are easily soluble in washing water (see Schmidt, paragraph 0001, page 2, lines 4-6), Applicants find no teaching or suggestion of a multi-phase tablet or a detergent tablet having more than one compression pressure. In fact, both Schmidt and Davidson teach away from the tablet pressures recited in Applicants' claims.

It is well settled that to support a rejection under 35 U.S.C. § 103, a reference must provide an enabling disclosure, i.e., it must place the claimed invention in the possession of the public. *In re Payne*, 203 U.S.P.Q. 245 (CCPA 1979). Neither Schmidt nor Davidson, alone or in combination with Gladfelter, result in the detergent tablet having (i) a first phase in the form of a shaped body having at least one mould therein, the shaped body being prepared at a compression pressure of at least about 250 kg/cm²; and (ii) a second phase is in the form of a compressed particulate solid affixed within said mould, the shaped body being prepared at a compression pressure of less than from 350 kg/cm².

Schmidt teaches that its detergent tablets are "compressed on a tableting machine of the KORSCH EK III-type by means of a pressure of 50 - 60 kN. The tablets [have] a circular cross section of a diameter of 40 mm, a height of 12 - 14 mm and a weight of 25 g" (see Schmidt, paragraph 0072, page 7, lines 47-50). This corresponds to a tablet compression pressure of from about 101 kg/cm² to about 122 kg/cm². Schmidt does not teach or suggest a detergent tablet having been formed by a compression pressure of at least about 250 kg/cm². It is error to find obviousness where references diverge from and teach away from the invention at hand, *In re Fine*, 5 U.S.P.Q.2d 1596, 1599 (Fed. Cir. 1988). Thus, Schmidt does not render the presently claimed detergent tablets obvious.

Moreover, Davidson does not resolve the deficiencies of Schmidt. While Davidson is directed to tablets containing tubules as disintegrating agents, Applicants find no teaching or

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suggestion of a multi-phase tablet or a detergent tablet more than one compression pressure. Davidson teaches that the detergent tablet is formed by compression at 2000-3000 psi compression pressure (see Davidson, Example 1, col. 4, lines 52-56). This corresponds to a tablet compression pressure of from about 140 kg/cm² to about 211 kg/cm². Davidson does not teach or suggest a detergent tablet having been formed by a compression pressure of at least about 250 kg/cm². It is error to find obviousness where references diverge from and teach away from the invention at hand, *In re Fine*, 5 U.S.P.Q.2d 1596, 1599 (Fed. Cir. 1988). Thus, Davidson does not render the presently claimed detergent tablets obvious. Thus, the combination of Schmidt and Davidson does not render the presently claimed detergent tablets obvious.

Likewise, the deficiencies of Schmidt and Davidson are also unresolved by Gladfelter, which is directed to a solid chemical concentrate system of at least two cooperative shapes. Gladfelter is silent on tablet compression pressures. Though the Examiner asserts that Gladfelter discloses tableting processes known in the art, there is no motivation or expectation of success in Gladfelter to direct one to utilize multiple tableting pressures or tableting pressures outside the ranges specifically disclosed by either Schmidt or Davidson. Thus, the combination of Schmidt or Davidson in view of Gladfelter does not render the presently claimed detergent tablets obvious.

In addition, the Applicants submit that just because the insert interlocks with the bar by fitting within the inner opening, it is not equivalent to physical affixation of the Applicants' second phase into the mould of the first phase, as is asserted by the Examiner. Applicants submit that Gladfelter only teach that the solid chemical concentrate system comprises: (a) a first an inwardly curved bar, said bar having an inner opening; and (b) a second shape comprising an insert wherein said insert interlocks with said bar by fitting within said bar inner opening, said bar and insert providing at least one substantially continuous surface and wherein the bar comprises a first composition and the insert comprises a second composition (see Gladfelter, see Abstract). However, the Gladfelter reference is silent on the subject of affixation of its two cooperating shapes- bar and an interlocking insert. Gladfelter does not disclose or suggest that the insert is affixed to the bar of its concentrate system. Rather, it is merely shaped to cooperate with the bar for packaging, storage and use purposes. Gladfelter expressly stated that "function of the invention is to provide a concentrate system which allows manufacture, packaging, storage, and use..." (Gladfelter, page 5, lines 23-25). The Examiner asserts that the Gladfelter insert interlocks with the bar by fitting within the inner opening and therefore, such fitting would be equivalent to physical adhesion. The idea that the insert and the bar are not affixed together is clearly shown by Gladfelter.

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Depending upon the need, the end consumer can easily separate the insert from the bar prior to use, if desired. *See Gladfelter*, page 26, lines 30-34; and page 28, lines 4-24. The present claims, as amended, require that the second phase is affixed to the first phase. As such, the second phase is not designed for removal by the end consumer. Furthermore, it is not easily removed due to the fact that the second phase is affixed to the mould of the first phase. There is no motivation in *Gladfelter* to affix the insert of its concentrate system to the bar because it would defeat the purpose of packaging, storage and end use by the consumer, such as by separating the insert from the bar.

Moreover, *Gladfelter* is silent on the presence of more than one phase. *Gladfelter* is directed to a solid chemical concentrate system. Unlike *Gladfelter*, the Applicants' may have two or more phases, at least one of which is in the form of a compressed particulate solid (Specification, page 6, line 40 through page 7, lines 1-8). Thus, the Applicants' affixation of the second phase within the mould of the first phase of present claims is not equivalent to adhesion of a single phase, two-piece solid chemical concentrate system by "fitting." Hence, the combination of Schmidt, Davidson and *Gladfelter* does not render the presently claimed multiphased detergent tablets obvious.

In light of the foregoing, Applicants respectfully submit that Claim 1, as amended, is not rendered obvious over Schmidt or Davidson, alone or in combination with *Gladfelter* because the combined references fail to teach each and every element of Claim 1, as amended. Further, Applicants submit that Claims 16-29, and 31-32, which ultimately depend on Claim 1, as amended, are not rendered obvious over Schmidt or Davidson, alone or in combination with *Gladfelter*.

CONCLUSION

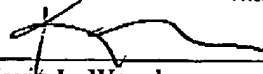
It is therefore submitted that the multiphase tablets defined by the present claims, as amended, are not rendered obvious over Schmidt in view or Davidson or further in view of *Gladfelter* and are patentably distinguishable therefrom, whereby the rejection of 35 U.S.C. § 103(a) has been overcome. Reconsideration is respectfully requested.

It is believed that the above represents a complete response to the rejection under 35 U.S.C. § 103(a), and places the present application in condition for allowance. Reconsideration and an early allowance are requested.

Respectfully submitted,

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